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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

CARMEN ANN SCHERICH,

Case No.

Plaintiff,

COMPLAINT FOR MEDICAL/DENTAL  
NEGLIGENCE

v.

UNITED STATES OF AMERICA,

Defendant.

1. This action is brought under 28 U.S.C. 2672 and 2674 for medical/dental negligence occurring at the Department of Veterans' Affairs (VA), Portland Veterans' Administration Medical Center, on March 27, 2015.

2. The VA is an executive department of defendant and its purpose, in part, is to provide benefits, including medical and dental benefits, to veterans. 38 U.S.C. 301(a) and (b).

3. Plaintiff timely filed a Notice of Tort claim with the VA Regional Counsel on August 25, 2016. 28 U.S.C. 2675(a). The VA denied the Tort Claim on March 30, 2017.

4. Plaintiff timely filed a request for reconsideration with the VA General Counsel on June 9, 2017 and this request was received by the VA on June 15, 2017. By law, the VA had 180 days to respond. After more than 180 days since having received the request for reconsideration, the VA has failed to respond. Plaintiff now brings this action.

5. On March 27, 2015, Plaintiff sought care with defendant through its employee, Dr. Carolyn Harakal, DDS, general dentist, for a crown replacement to tooth no. 14. Dr. Harakal removed the existing crown, and without informing plaintiff initiated a root canal procedure. While performing the root canal, Dr. Harakal caused plaintiff to experience a sodium hyperchloride (bleaching) accident. When bleach entered the soft tissues, plaintiff experienced the sudden onset of acute left fascial burning pain. When plaintiff announced her discomfort, Dr. Harakal failed to tell her that a bleaching accident had occurred. Dr. Harakal sent plaintiff home with a temporary crown and the antibiotic Augmentin.

At the time of the event, the tooth requiring root canal was no. 15 and not no. 14.

6. Plaintiff sought emergency dental care with Dr. Holly Chamberlain, DDS, general dentist. Dr. Chamberlain diagnosed a bleaching accident and referred Plaintiff to Dr. Tai Truong, DMD, endodontist, for treatment.

Dr. Truong determined that in the area of tooth no. 14 bleach had been pushed into the bone and caused infection and tissue degeneration. He opened tooth no. 14 and inserted a drain into it. He also noticed that it was tooth no. 15 that required root canal. After drainage was completed, he performed a repair resection of the mesiobuccal and distobuccal roots of tooth no. 14 and also a resection of the mesiobuccal root of tooth no.15.

Dr. Truong referred plaintiff to Dr. Joel Hopkin, DMD, MD, maxofascial surgeon, for consultation to address numbness plaintiff was experiencing to the tongue, lip and left-side of the face. Dr. Hopkins diagnosed paresthesia to the trigeminal nerve, secondary to chemical injury. Accordingly, he performed incision and drainage of the left buccal maxillary area.

7. At all times defendant, through its employee Dr. Harakal, had a duty to know, understand and apply the standard of care a dentist practicing in Oregon is held to. Defendant, through its employee Dr. Harakal, breached standard of care, and accordingly was negligent by failing to follow these standard of care practices and procedures:

- a. Obtaining plaintiff's informed consent to the root canal procedure that Dr. Harakal initiated;
- b. Advising plaintiff that she had the option to have the root canal performed by a specialty endodontist;
- c. Advising plaintiff that she had the option to have an implant rather than a root canal;
- d. Properly diagnosing the tooth actually requiring root canal, no. 15 and not no. 14;
- e. Using a safety tip needle while performing the root canal;
- f. Releasing bleach solution slowly and with constant movement of the needle;
- g. Advising plaintiff that a bleaching accident had occurred;
- h. Referring plaintiff to an endodontist and maxofascial surgeon for corrective care immediately after the accident; and
- i. Administering and prescribing immediately after the accident proper antibiotics, oral analgesics and ice-packs.

8. As a result of defendants' negligence, plaintiff has sustained permanent soft tissue damage surrounding tooth no. 14. As a result of this damage, plaintiff has chronic difficulty chewing.

As a further result of defendant's negligence, plaintiff has sustained permanent damage to her left second trigeminal nerve. From this permanent nerve damage, plaintiff now experiences: pain, numbness and swelling along her left nose, cheek, eye-socket and ear area; pain with chewing; pain with smiling; and chronic maxillary sinusitis.

As a further result of defendant's negligence, plaintiff has sustained permanent damage to the Schneiderian Membrane. From this damage, plaintiff now experiences a chronic sensation of left-sinus congestion and fullness.

As a result of all damage, plaintiff has sustained non-economic loss of \$3,000,000.00.

WHEREFORE, plaintiff prays for judgment:

1. Finding that defendant is negligent;
2. Awarding damages in the amount of \$3,000,000.00;
3. Awarding plaintiff's costs and disbursements incurred herein; and
3. Awarding such other and further relief as is just and proper.

DATED this 27th day of December, 2017.

/s/ SARA L. GABIN  
SARA L. GABIN, OSB#81234  
Attorney for Plaintiff